HOUSE BILL No. 1699

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-13-3; IC 12-13; IC 12-14-25.5-3; IC 31-9-2; IC 31-33-18-1.5; IC 31-34; IC 31-37; IC 31-39-2-13.5.

Synopsis: Child abuse reporting. Allows the state police to conduct a name based criminal history check of persons who reside or who are expected to reside in a location where a child will be placed by the division of family and children or a court if exigent circumstances prevent the state police from conducting a fingerprint based criminal history check. Requires the state police to verify the name based criminal history check through fingerprint identification, and permits a person who believes that the results of the name based criminal history check are incorrect to challenge the results by submitting the person's fingerprints. Removes a provision authorizing the division of family and children or a juvenile probation officer to directly conduct a criminal history check, requiring instead that the juvenile probation officer or division of family and children caseworker request that the state police conduct the criminal history check. Specifies that the division of family and children, a county office of family and children, a local child protective service, a local child fatality review team, or the statewide child fatality review committee must disclose certain redacted records concerning the death of a child regardless of when the records were created. Provides that certain information concerning the parents or guardian of a deceased child is not required to be redacted. Requires a local child fatality review team and the statewide child fatality review committee to review records concerning a child whose death may have been the result of abuse or neglect. Specifies that a child's death may have been the result of abuse or neglect if: (1) an investigation by the division of family and children makes this determination; or (2) charges filed by the prosecuting attorney would cause a reasonable person to believe that the child's death may have been the result of abuse or neglect.

Effective: July 1, 2005.

2005

Avery, Hinkle

January 19, 2005, read first time and referred to Committee on Family, Children and Human Affairs











First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1699

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1	SECTION 1. IC 10-13-3-6 IS AMENDED TO READ AS
2	FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) As used in this
3	chapter, "criminal justice agency" means any agency or department of
4	any level of government whose principal function is:
5	(1) the apprehension, prosecution, adjudication, incarceration,

- (1) the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders;
- (2) the location of parents with child support obligations under 42 U.S.C. 653;
- (3) the licensing and regulating of riverboat gambling operations; or
 - (4) the licensing and regulating of pari-mutuel horse racing operations.
 - (b) The term includes the following:
 - (1) The office of the attorney general.
 - (2) The Medicaid fraud control unit, for the purpose of investigating offenses involving Medicaid.
 - (3) A nongovernmental entity that performs as its principal



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1	function the:	
2	(A) apprehension, prosecution, adjudication, incarceration, or	
3	rehabilitation of criminal offenders;	
4	(B) location of parents with child support obligations under 42	
5	U.S.C. 653;	
6	(C) licensing and regulating of riverboat gambling operations;	
7	or	
8	(D) licensing and regulating of pari-mutuel horse racing	
9	operations;	
10	under a contract with an agency or department of any level of	
11	government.	
12	(4) The division of family and children or a juvenile probation	
13	officer conducting a criminal history check (as defined in	
14	IC 31-9-2-29.7) under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to	
15	determine the appropriateness of an out-of-home placement for a:	
16	(A) child at imminent risk of placement;	
17	(B) child in need of services; or	
18	(C) delinquent child.	
19	SECTION 2. IC 10-13-3-7.5 IS ADDED TO THE INDIANA CODE	
20	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY	
21	1, 2005]: Sec. 7.5. As used in this chapter, "emergency placement"	
22	means an emergency out-of-home placement of a child by the	
23	division of family and children or a court as a result of the sudden	
24	unavailability of the child's parent, guardian, or custodian. The	
25	term does not include placement to an entity or in facility that is	
26	not a residence (as defined in IC 3-5-2-42.5) or that is licensed by	
27	the state.	
28	SECTION 3. IC 10-13-3-12.5 IS ADDED TO THE INDIANA	
29	CODE AS A NEW SECTION TO READ AS FOLLOWS	
30	[EFFECTIVE JULY 1, 2005]: Sec. 12.5. As used in this chapter,	
31 32	"national name based criminal history record check" means a query of the National Crime Information Center data base	
33	maintained by the Federal Bureau of Investigation that:	
34		
35	(1) is conducted using the subject's name; and(2) does not use fingerprint identification or another method	
36	of positive identification.	
37	SECTION 4. IC 10-13-3-27 IS AMENDED TO READ AS	
38	FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) Except as	
39	provided in subsection (b), on request, law enforcement agencies shall	
40	release or allow inspection of a limited criminal history to noncriminal	
41	justice organizations or individuals only if the subject of the request:	
12	(1) has annlied for employment with a noncriminal justice	



1	organization or individual;
2	(2) has applied for a license and criminal history data as required
3	by law to be provided in connection with the license;
4	(3) is a candidate for public office or a public official;
5	(4) is in the process of being apprehended by a law enforcement
6	agency;
7	(5) is placed under arrest for the alleged commission of a crime;
8	(6) has charged that the subject's rights have been abused
9	repeatedly by criminal justice agencies;
10	(7) is the subject of a judicial decision or determination with
11	respect to the setting of bond, plea bargaining, sentencing, or
12	probation;
13	(8) has volunteered services that involve contact with, care of, or
14	supervision over a child who is being placed, matched, or
15	monitored by a social services agency or a nonprofit corporation;
16	(9) is currently residing or expected to reside in a location
17	designated by the division of family and children or by a
18	juvenile court as the out-of-home placement for a child at the
19	time the child will reside in the location;
20	(9) (10) has volunteered services at a public school (as defined in
21	IC 20-10.1-1-2) or nonpublic school (as defined in
22	IC 20-10.1-1-3) that involve contact with, care of, or supervision
23	over a student enrolled in the school;
24	(10) (11) is being investigated for welfare fraud by an investigator
25	of the division of family and children or a county office of family
26	and children;
27	(11) (12) is being sought by the parent locator service of the child
28	support bureau of the division of family and children;
29	(12) (13) is or was required to register as a sex and violent
30	offender under IC 5-2-12; or
31	(13) (14) has been convicted of any of the following:
32	(A) Rape (IC 35-42-4-1), if the victim is less than eighteen
33	(18) years of age.
34	(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is
35	less than eighteen (18) years of age.
36	(C) Child molesting (IC 35-42-4-3).
37	(D) Child exploitation (IC 35-42-4-4(b)).
38	(E) Possession of child pornography (IC 35-42-4-4(c)).
39	(F) Vicarious sexual gratification (IC 35-42-4-5).
40	(G) Child solicitation (IC 35-42-4-6).
41	(H) Child seduction (IC 35-42-4-7).
42	(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).



1	(J) Incest (IC 35-46-1-3), if the victim is less than eighteen
2	(18) years of age.
3	However, limited criminal history information obtained from the
4	National Crime Information Center may not be released under this
5	section except to the extent permitted by the Attorney General of the
6	United States.
7	(b) A law enforcement agency shall allow inspection of a limited
8	criminal history by and release a limited criminal history to the
9	following noncriminal justice organizations:
0	(1) Federally chartered or insured banking institutions.
1	(2) Officials of state and local government for any of the
2	following purposes:
3	(A) Employment with a state or local governmental entity.
4	(B) Licensing.
.5	(3) Segments of the securities industry identified under 15 U.S.C.
6	78q(f)(2).
7	(c) Any person who uses limited criminal history for any purpose
8	not specified under this section commits a Class A misdemeanor.
9	SECTION 5. IC 10-13-3-27.5 IS ADDED TO THE INDIANA
20	CODE AS A NEW SECTION TO READ AS FOLLOWS
21	[EFFECTIVE JULY 1, 2005]: Sec. 27.5. (a) If:
22	(1) exigent circumstances require the emergency placement of
23	a child; and
24	(2) the department will be unable to obtain criminal history
25	information from the National Crime Information Center
26	before the emergency placement is scheduled to occur;
27	upon request of the division of family and children, a caseworker,
28	or a juvenile probation officer, the department may conduct a
29	national name based criminal history record check of each
0	individual who is currently residing or expected to reside in the
31	location designated as the out-of-home placement at the time the
32	child will reside in the location.
3	(b) Not later than seventy-two (72) hours after the division of
34	family and children, the caseworker, or the juvenile probation
35	officer receives the results of the national name based criminal
66	history record check, the division of family and children, the
37	caseworker, or the juvenile probation officer shall provide the
8	department with a complete set of fingerprints for each individual
9	who is currently residing or expected to reside in the location
10	designated as the out-of-home placement at the time the child will
1	be placed in the location. The department shall:
12	(1) use fingerprint identification to positively identify each



1	individual who is currently residing or expected to reside in
2	the location designated as the out-of-home placement at the
3	time the child will reside in the location; or
4	(2) submit the fingerprints to the Federal Bureau of
5	Investigation not later than fifteen (15) days after the date on
6	which the national name based criminal history record check
7	was conducted.
8	The child shall be removed from the location designated as the
9	out-of-home placement if an individual who is currently residing
10	or expected to reside in the location designated as the out-of-home
11	placement at the time the child will reside in the location fails to
12	provide a complete set of fingerprints to the division of family and
13	children, the caseworker, or the juvenile probation officer.
14	(c) If an out-of-home placement is denied as the result of a
15	national name based criminal history record check, an individual
16	who is currently residing or expected to reside in the location
17	designated as the out-of-home placement at the time the child will
18	reside in the location may contest the denial by submitting to the
19	division of family and children, the caseworker, or the juvenile
20	probation officer:
21	(1) a complete set of the individual's fingerprints; and
22	(2) written authorization permitting the division of family and
23	children, the caseworker, or the juvenile probation officer to
24	forward the fingerprints to the department for submission to
25	the Federal Bureau of Investigation;
26	not later than five (5) days after the out-of-home placement is
27	denied.
28	(d) The:
29	(1) department; and
30	(2) Federal Bureau of Investigation;
31	may charge a reasonable fee for processing a national name based
32	criminal history record check.
33	SECTION 6. IC 12-13-15-6 IS AMENDED TO READ AS
34	FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A child fatality
35	review consists of determining:
36	(1) whether similar future deaths could be prevented; and
37	(2) agencies or resources that should be involved to adequately
38	prevent future deaths of children.
39	(b) In conducting the child fatality review under subsection (a),
40	the local child fatality review team shall review every record
41	concerning the deceased child that is held by:
42	(1) the division of family and children;



1	(2) a county office of family and children; or
2	(3) a local child protection service.
3	SECTION 7. IC 12-13-15.1-7 IS AMENDED TO READ AS
4	FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) A child fatality
5	review conducted by the statewide child fatality review committee
6	under this chapter must consist of determining:
7	(1) whether similar future deaths could be prevented; and
8	(2) agencies or resources that should be involved to adequately
9	prevent future deaths of children.
0	(b) In conducting the child fatality review under subsection (a),
1	the statewide child fatality review committee shall review every
2	record concerning the deceased child that is held by:
3	(1) the division of family and children;
4	(2) a county office of family and children;
5	(3) a local child protection service; or
6	(4) a local child fatality review team.
7	SECTION 8. IC 12-14-25.5-3 IS AMENDED TO READ AS
8	FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Family
9	preservation services may provide:
0	(1) comprehensive, coordinated, flexible, and accessible services;
1	(2) intervention as early as possible with emphasis on establishing
2	a safe and nurturing environment;
3	(3) services to families who have members placed in care settings
4	outside the nuclear family; and
5	(4) planning options for temporary placement outside the family
6	if it would endanger the child to remain in the home.
7	(b) Unless authorized by a juvenile court, family preservation
3	services may not include a temporary out-of-home placement if a
9	person who:
0	(1) is currently residing in the location designated as the
1	out-of-home placement; or
2	(2) in the reasonable belief of family preservation services is
3	expected to be residing in the location designated as the
4	out-of-home placement during the time the child at imminent risk
5	of placement would be placed in the location;
6	has committed an act resulting in a substantiated report of child abuse
7	or neglect or has a juvenile adjudication or a conviction for a felony
8	listed in IC 12-17.4-4-11.
9	(c) Before placing a child at imminent risk of placement in a
0	temporary out-of-home placement, the county office of family and
1	children shall conduct a criminal history check (as defined in
2	IC 31-9-2-29.7) IC 31-9-2-22.5) for each person described in



1	subsection $(b)(1)$ and $(b)(2)$. However, the county office of family and
2	children is not required to conduct a criminal history check under this
3	section if the temporary out-of-home placement is made to an entity or
4	facility that is not a residence (as defined in IC 3-5-2-42.5) or that is
5	licensed by the state.
6	SECTION 9. IC 31-9-2-22.5 IS ADDED TO THE INDIANA CODE
7	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8	1, 2005]: Sec. 22.5. "Conduct a criminal history check", for
9	purposes of IC 12-14-25.5, IC 31-33, IC 31-34, IC 31-37, and
10	IC 31-39-2-13.5, means to:
11	(1) request the state police department to:
12	(A) release or allow inspection of a limited criminal history
13	concerning a person who is currently residing or expected
14	to reside in a location designated by the division of family
15	and children or by a juvenile court as the out-of-home
16	placement for a child at the time the child will reside in the
17	location; or
18	(B) conduct a national name based criminal history record
19	check (as defined in IC 10-13-3-12.5) of a person described
20	in clause (A) if the department will be unable to obtain
21	limited criminal history information from the National
22	Crime Information Center before the out-of-home
23	placement occurs; and
24	(2) collect each:
25	(A) substantiated report of child abuse or neglect reported
26	in a jurisdiction where a probation officer, a caseworker,
27	or the division of family and children has reason to believe
28	that a person described in subdivision (1)(A) resided; and
29	(B) adjudication for a delinquent act described in
30	IC 31-37-1-2 reported in a jurisdiction where a probation
31	officer, a caseworker, or the division of family and children
32	has reason to believe a person described in subdivision
33	(1)(A) resided.
34	SECTION 10. IC 31-33-18-1.5 IS AMENDED TO READ AS
35	FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) This section
36	applies to records created at any time that are held by:
37	(1) the division of family and children;
38	(2) a county office of family and children;
39	(3) a local child protection service;
40	(4) a local child fatality review team established under
41	IC 12-13-15; or
42	(5) the statewide child fatality review committee established



1	under IC 12-13-15.1-6;
2	regarding the death of a child determined to be a whose death may
3	have been the result of abuse, abandonment, or neglect.
4	(b) For purposes of subsection (a), a child's death may have
5	been the result of abuse, abandonment, or neglect if:
6	(1) an entity described in subsection (a) determines that the
7	child's death is the result of abuse, abandonment, or neglect;
8	or
9	(2) a prosecuting attorney files:
10	(A) an indictment or information; or
11	(B) a complaint alleging the commission of a delinquent
12	act;
13	that, if proven, would cause a reasonable person to believe
14	that the child's death may have been the result of abuse,
15	abandonment, or neglect.
16	Upon the request of any person, or upon its own motion, the court
17	exercising juvenile jurisdiction in the county in which the child's
18	death occurred shall determine whether the allegations contained
19	in the indictment, information, or complaint, if proven, would
20	cause a reasonable person to believe that the child's death may
21	have been the result of abuse, abandonment, or neglect.
22	(b) (c) As used in this section, "identifying information" means
23	information that identifies an individual, including an individual's:
24	(1) name, address, date of birth, occupation, place of employment,
25	employer identification number, mother's maiden name, Social
26	Security number, or any identification number issued by a
27	governmental entity;
28	(2) unique biometric data, including the individual's fingerprint,
29	voice print, or retina or iris image;
30	(3) unique electronic identification number, address, or routing
31	code;
32	(4) telecommunication identifying information; or
33	(5) telecommunication access device, including a card, a plate, a
34	code, a telephone number, an account number, a personal
35	identification number, an electronic serial number, a mobile
36	identification number, or another telecommunications service or
37	device or means of account access.
38	(c) (d) Unless information in a record is otherwise confidential
39	under state or federal law, a record described in subsection (a) that has
40 41	been redacted in accordance with this section is not confidential and may be disclosed to any person who requests the record. The person

requesting the record may be required to pay the reasonable expenses



1	of copying the record.
2	(d) (e) When a person requests a record described in subsection (a),
3	the entity having control of the record shall immediately transmit a
4	copy of the record to the court exercising juvenile jurisdiction in the
5	county in which the death of the child occurred. However, if the court
6	requests that the entity having control of a record transmit the original
7	record, the entity shall transmit the original record.
8	(e) (f) Upon receipt of the record described in subsection (a), the
9	court shall, within thirty (30) days, redact the record to exclude
10	identifying information of a person or other information not relevant to
11	establishing the facts and circumstances leading to the death of the
12	child. However, the court shall not redact the record to exclude:
13	(1) information that relates to an employee of the division of
14	family and children;
15	(2) information that relates to an employee of a county office of
16	family and children; or
17	(3) information that relates to an employee of a local child
18	protection service; or
19	(4) the name, address, and telephone number of the:
20	(A) child's parents; and
21	(B) person having custody of the child at the time of the
22	child's death.
23	(f) (g) The court shall disclose the record redacted in accordance
24	with subsection (e) (f) to any person who requests the record, if the
25	person has paid:
26	(1) to the entity having control of the record, the reasonable
27	expenses of copying under IC 5-14-3-8; and
28	(2) to the court, the reasonable expenses of copying the record.
29	(g) (h) The court's determination under subsection (e) (f) that certain
30	identifying information or other information is not relevant to
31	establishing the facts and circumstances leading to the death of a child
32	is not admissible in a criminal proceeding or civil action.
33	SECTION 11. IC 31-34-4-2 IS AMENDED TO READ AS
34	FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) If a child alleged
35	to be a child in need of services is taken into custody under an order of
36	the court under this chapter, the court shall consider placing the child
37	with a suitable and willing blood or adoptive relative caretaker,
38	including a grandparent, an aunt, an uncle, or an adult sibling, before
39	considering any other out-of-home placement.
40	(b) Before placing a child in need of services with a blood relative
41	or an adoptive relative caretaker, the court may order the division of



family and children to:

1	(1) complete a home study of the relative's home; and
2	(2) provide the court with a placement recommendation.
3	(c) Except as provided in subsection (e), before placing a child in
4	need of services in an out-of-home placement, including placement
5	with a blood or an adoptive relative caretaker, the court shall order the
6	division of family and children to conduct a criminal history check (as
7	defined in IC 31-9-2-22.5) of each person who is:
8	(1) currently residing in the location designated as the
9	out-of-home placement; or
.0	(2) in the reasonable belief of the division of family and children,
. 1	expected to be residing in the location designated as the
.2	out-of-home placement during the time the child would be placed
.3	in the location.
4	(d) Except as provided in subsection (f), a court may not order an
.5	out-of-home placement if a person described in subsection (c)(1) or
.6	(c)(2) has:
.7	(1) committed an act resulting in a substantiated report of child
. 8	abuse or neglect; or
9	(2) been convicted of a felony listed in IC 12-17.4-4-11 or had a
20	juvenile adjudication for an act that would be a felony listed in
21	IC 12-17.4-4-11 if committed by an adult.
22	(e) The court is not required to order the division of family and
23	children to conduct a criminal history check under subsection (c) if the
24	court orders an out-of-home placement to an entity or a facility that is
25	not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the
26	state.
27	(f) A court may order an out-of-home placement if:
28	(1) a person described in subsection (c)(1) or (c)(2) has:
29	(A) committed an act resulting in a substantiated report of
30	child abuse or neglect; or
51	(B) been convicted or had a juvenile adjudication for:
32	(i) reckless homicide (IC 35-42-1-5);
33	(ii) battery (IC 35-42-2-1) as a Class C or D felony;
34	(iii) criminal confinement (IC 35-42-3-3) as a Class C or D
55	felony;
66	(iv) arson (IC 35-43-1-1) as a Class C or D felony;
57	(v) a felony involving a weapon under IC 35-47 or
88	IC 35-47.5 as a Class C or D felony;
19	(vi) a felony relating to controlled substances under
10	IC 35-48-4 as a Class C or D felony; or
1	(vii) a felony that is substantially equivalent to a felony
12	listed in items (i) through (vi) for which the conviction was



1	entered in another state; and
2	(2) the court makes a written finding that the person's commission
3	of the offense, delinquent act, or act of abuse or neglect described
4	in subdivision (1) is not relevant to the person's present ability to
5	care for a child, and that the placement is in the best interest of
6	the child.
7	However, a court may not order an out-of-home placement if the person
8	has been convicted of a felony listed in IC 12-17.4-4-11 that is not
9	specifically excluded under subdivision (1)(B), or has a juvenile
0	adjudication for an act that would be a felony listed in IC 12-17.4-4-11
1	if committed by an adult that is not specifically excluded under
2	subdivision (1)(B).
3	(g) In making its written finding under subsection (f), the court shall
4	consider the following:
5	(1) The length of time since the person committed the offense,
6	delinquent act, or abuse or neglect.
7	(2) The severity of the offense, delinquent act, or abuse or neglect.
8	(3) Evidence of the person's rehabilitation, including the person's
9	cooperation with a treatment plan, if applicable.
0	SECTION 12. IC 31-34-18-6.1 IS AMENDED TO READ AS
1	FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) The
2	predispositional report prepared by a probation officer or caseworker
3	shall include the following information:
4	(1) A description of all dispositional options considered in
5	preparing the report.
6	(2) An evaluation of each of the options considered in relation to
7	the plan of care, treatment, rehabilitation, or placement
8	recommended under the guidelines described in section 4 of this
9	chapter.
0	(3) The name, occupation and position, and any relationship to the
1	child of each person with whom the preparer of the report
2	conferred as provided in section 1.1 of this chapter.
3	(b) If a probation officer or a caseworker is considering an
4	out-of-home placement, including placement with a blood or an
5	adoptive relative caretaker, the probation officer or caseworker shall
6	conduct a criminal history check (as defined in IC 31-9-2-22.5) for
	each person who: (1) is currently residing in the location designated as the
8	(1) is currently residing in the location designated as the out-of-home placement; or
.0	
1	(2) in the reasonable belief of the probation officer or caseworker, is expected to be residing in the location designated as the
2	out-of-home placement during the time the child would be placed
· <u>∠</u>	out-or-nome pracement during the time the child would be praced



1	in the location.
2	The results of the criminal history check must be included in the
3	predispositional report.
4	(c) A probation officer or caseworker is not required to conduct a
5	criminal history check under this section if:
6	(1) the probation officer or caseworker is considering only an
7	out-of-home placement to an entity or facility that:
8	(A) is not a residence (as defined in IC 3-5-2-42.5); or
9	(B) is licensed by the state; or
10	(2) placement under this section is undetermined at the time the
11	predispositional report is prepared.
12	SECTION 13. IC 31-34-19-7 IS AMENDED TO READ AS
13	FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Except as
14	provided in subsection (d), a court may not enter a dispositional decree
15	under subsection (b) if a person who is:
16	(1) currently residing in the location designated as the
17	out-of-home placement; or
18	(2) reasonably expected to be residing in the location designated
19	as the out-of-home placement during the time the child would be
20	placed in the location;
21	has committed an act resulting in a substantiated report of child abuse
22	or neglect, has a juvenile adjudication for an act that would be a felony
23	listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction
24	for a felony listed in IC 12-17.4-4-11. If a criminal history check has
25	not been conducted before a dispositional decree is entered under this
26	section, the court shall order the probation officer or caseworker who
27	prepared the predispositional report to conduct a criminal history check
28	(as defined in IC 31-9-2-22.5) in the manner set forth in
29	IC 31-34-18-6.1.
30	(b) In addition to the factors under section 6 of this chapter, if the
31	court enters a dispositional decree regarding a child in need of services
32	that includes an out-of-home placement, the court shall consider
33	whether the child should be placed with the child's suitable and willing
34	blood or adoptive relative caretaker, including a grandparent, an aunt,
35	an uncle, or an adult sibling, before considering other out-of-home
36	placements for the child.
37	(c) The court is not required to order a probation officer or
38	caseworker to conduct a criminal history check under subsection (a) if
39	the court orders an out-of-home placement to an entity or a facility that
40	is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the
41	state.
42	(d) A court may enter a dispositional decree under subsection (b) if:



1	(1) a person described in subsection (a)(1) or (a)(2) has:
2	(A) committed an act resulting in a substantiated report of
3	child abuse or neglect; or
4	(B) been convicted or had a juvenile adjudication for:
5	(i) reckless homicide (IC 35-42-1-5);
6	(ii) battery (IC 35-42-2-1) as a Class C or D felony;
7	(iii) criminal confinement (IC 35-42-3-3) as a Class C or D
8	felony;
9	(iv) arson (IC 35-43-1-1) as a Class C or D felony;
10	(v) a felony involving a weapon under IC 35-47 or
11	IC 35-47.5 as a Class C or D felony;
12	(vi) a felony relating to controlled substances under
13	IC 35-48-4 as a Class C or D felony; or
14	(vii) a felony that is substantially equivalent to a felony
15	listed in items (i) through (vi) for which the conviction was
16	entered in another state; and
17	(2) the court makes a written finding that the person's commission
18	of the offense, delinquent act, or act of abuse or neglect described
19	in subdivision (1) is not relevant to the person's present ability to
20	care for a child, and the dispositional decree is in the best interest
21	of the child.
22	However, a court may not enter a dispositional decree if the person has
23	been convicted of a felony listed in IC 12-17.4-4-11 that is not
24	specifically excluded under subdivision (1)(B), or has a juvenile
25	adjudication for an act that would be a felony listed in IC 12-17.4-4-11
26	if committed by an adult that is not specifically excluded under
27	subdivision (1)(B).
28	(e) In making its written finding under subsection (d), the court shall
29	consider the following:
30	(1) The length of time since the person committed the offense,
31	delinquent act, or act that resulted in the conviction, adjudication,
32	or substantiated report of abuse or neglect.
33	(2) The severity of the offense, delinquent act, or abuse or neglect.
34	(3) Evidence of the person's rehabilitation, including the person's
35	cooperation with a treatment plan, if applicable.
36	SECTION 14. IC 31-34-20-1.5 IS AMENDED TO READ AS
37	FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) Except as
38	provided in subsection (c), the juvenile court may not enter a
39	dispositional decree placing a child in another home under section 1(3)
40	of this chapter or awarding wardship to a county office of family and
41	children that will place the child with a person under section 1(4) of



this chapter if a person who is:

1	(1) currently residing in the home in which the child would be
2	placed under section 1(3) or 1(4) of this chapter; or
3	(2) reasonably expected to be residing in the home in which the
4	child would be placed under section 1(3) or 1(4) of this chapter
5	during the time the child would be placed in the home;
6	has committed an act resulting in a substantiated report of child abuse
7	or neglect, has a juvenile adjudication for an act that would be a felony
8	listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction
9	for a felony listed in IC 12-17.4-4-11.
10	(b) The juvenile court shall order the probation officer or
11	caseworker who prepared the predispositional report to conduct a
12	criminal history check (as defined in IC 31-9-2-22.5) to determine if
13	a person described in subsection (a)(1) or (a)(2) has committed an act
14	resulting in a substantiated report of child abuse or neglect has a
15	juvenile adjudication for an act that would be a felony listed in
16	IC 12-17.4-4-11 if committed by an adult, or has a conviction for a
17	felony listed in IC 12-17.4-4-11. However, the juvenile court is not
18	required to order a criminal history check under this section if criminal
19	history information under IC 31-34-4-2, IC 31-34-18-6.1, or
20	IC 31-34-19-7 establishes whether a person described in subsection
21	(a)(1) or (a)(2) has committed an act resulting in a substantiated report
22	of child abuse or neglect, has a juvenile adjudication for an act that
23	would be a felony listed in IC 12-17.4-4-11 if committed by an adult,
24	or has a conviction for a felony listed in IC 12-17.4-4-11.
25	(c) A court may enter a dispositional decree placing a child in
26	another home or award wardship to a county office of family and
27	children if:
28	(1) a person described in subsection (a)(1) or (a)(2) has:
29	(A) committed an act resulting in a substantiated report of
30	child abuse or neglect; or
31	(B) been convicted or had a juvenile adjudication for:
32	(i) reckless homicide (IC 35-42-1-5);
33	(ii) battery (IC 35-42-2-1) as a Class C or D felony;
34	(iii) criminal confinement (IC 35-42-3-3) as a Class C or D
35	felony;
36	(iv) arson (IC 35-43-1-1) as a Class C or D felony;
37	(v) a felony involving a weapon under IC 35-47 or
38	IC 35-47.5 as a Class C or D felony;
39	(vi) a felony relating to controlled substances under
40	IC 35-48-4 as a Class C or D felony; or
41	(vii) a felony that is substantially equivalent to a felony
42	listed in items (i) through (vi) for which the conviction was



1	entered in another state; and
2	(2) the court makes a written finding that the person's commission
3	of the offense, delinquent act, or act of abuse or neglect described
4	in subdivision (1) is not relevant to the person's present ability to
5	care for a child, and that the dispositional decree placing a child
6	in another home or awarding wardship to a county office of family
7	and children is in the best interest of the child.
8	However, a court may not enter a dispositional decree placing a child
9	in another home or award wardship to a county office of family and
10	children if the person has been convicted of a felony listed in
11	IC 12-17.4-4-11 that is not specifically excluded under subdivision
12	(1)(B), or has a juvenile adjudication for an act that would be a felony
13	listed in IC 12-17.4-4-11 if committed by an adult that is not
14	specifically excluded under subdivision (1)(B).
15	(d) In making its written finding under subsection (c), the court shall
16	consider the following:
17	(1) The length of time since the person committed the offense,
18	delinquent act, or act that resulted in the substantiated report of
19	abuse or neglect.
20	(2) The severity of the offense, delinquent act, or abuse or neglect.
21	(3) Evidence of the person's rehabilitation, including the person's
22	cooperation with a treatment plan, if applicable.
23	SECTION 15. IC 31-34-21-7.5 IS AMENDED TO READ AS
24	FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. (a) Except as
25	provided in subsection (d), the juvenile court may not approve a
26	permanency plan under subsection (c)(1)(D) or (c)(1)(E) if a person
27	who is:
28	(1) currently residing with a person described in subsection
29	(c)(1)(D) or $(c)(1)(E)$; or
30	(2) reasonably expected to be residing with a person described in
31	subsection $(c)(1)(D)$ or $(c)(1)(E)$ during the time the child would
32	be placed in the location;
33	has committed an act resulting in a substantiated report of child abuse
34	or neglect, has a juvenile adjudication for an act that would be a felony
35	listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction
36	for a felony listed in IC 12-17.4-4-11.
37	(b) The juvenile court shall order the probation officer or
38	caseworker who prepared the predispositional report to conduct a
39	criminal history check (as defined in IC 31-9-2-22.5) to determine if
40	a person described in subsection (a)(1) or (a)(2) has committed an act
41	resulting in a substantiated report of child abuse or neglect, has a
42	juvenile adjudication for an act that would be a felony listed in



1	IC 12-17.4-4-11 if committed by an adult, or has a conviction for a	
2	felony listed in IC 12-17.4-4-11. However, the juvenile court is not	
3	required to order a criminal history check under this section if criminal	
4	history information under IC 31-34-4-2, IC 31-34-18-6.1,	
5	IC 31-34-19-7, or IC 31-34-20-1.5 establishes whether a person	
6	described in subsection (a)(1) or (a)(2) has committed an act resulting	
7	in a substantiated report of child abuse or neglect, has a juvenile	
8	adjudication for an act that would be a felony listed in IC 12-17.4-4-11	
9	if committed by an adult, or has a conviction for a felony listed in	
10	IC 12-17.4-4-11.	
11	(c) A permanency plan under this chapter includes the following:	
12	(1) The intended permanent or long term arrangements for care	
13	and custody of the child that may include any of the following	
14	arrangements that the court considers most appropriate and	
15	consistent with the best interests of the child:	
16	(A) Return to or continuation of existing custodial care within	
17	the home of the child's parent, guardian, or custodian or	
18	placement of the child with the child's noncustodial parent.	
19	(B) Initiation of a proceeding by the agency or appropriate	
20	person for termination of the parent-child relationship under	
21	IC 31-35.	
22	(C) Placement of the child for adoption.	
23	(D) Placement of the child with a responsible person,	
24	including:	
25	(i) an adult sibling;	
26	(ii) a grandparent;	
27	(iii) an aunt;	
28	(iv) an uncle; or	
29	(v) another relative;	
30	who is able and willing to act as the child's permanent	
31	custodian and carry out the responsibilities required by the	
32	permanency plan.	
33	(E) Appointment of a legal guardian. The legal guardian	
34	appointed under this section is a caretaker in a judicially	
35	created relationship between the child and caretaker that is	
36	intended to be permanent and self-sustaining as evidenced by	
37	the transfer to the caretaker of the following parental rights	
38	with respect to the child:	
39	(i) Care, custody, and control of the child.	
40	(ii) Decision making concerning the child's upbringing.	
41	(F) Placement of the child in another planned, permanent	
42	living arrangement.	



1	(2) A time schedule for implementing the applicable provisions	
2	of the permanency plan.	
3	(3) Provisions for temporary or interim arrangements for care and	
4	custody of the child, pending completion of implementation of the	
5	permanency plan.	
6	(4) Other items required to be included in a case plan under	
7	IC 31-34-15 or federal law, consistent with the permanent or long	
8	term arrangements described by the permanency plan.	
9	(d) A juvenile court may approve a permanency plan if:	4
10	(1) a person described in subsection (a)(1) or (a)(2) has:	
11	(A) committed an act resulting in a substantiated report of	
12	child abuse or neglect; or	
13	(B) been convicted or had a juvenile adjudication for:	
14	(i) reckless homicide (IC 35-42-1-5);	
15	(ii) battery (IC 35-42-2-1) as a Class C or D felony;	
16	(iii) criminal confinement (IC 35-42-3-3) as a Class C or D	
17	felony;	
18	(iv) arson (IC 35-43-1-1) as a Class C or D felony;	
19	(v) a felony involving a weapon under IC 35-47 or	
20	IC 35-47.5 as a Class C or D felony;	
21	(vi) a felony relating to controlled substances under	
22	IC 35-48-4 as a Class C or D felony; or	
23	(vii) a felony that is substantially equivalent to a felony	
24	listed in items (i) through (vi) for which the conviction was	
25	entered in another state; and	
26	(2) the court makes a written finding that the person's commission	
27	of the offense, delinquent act, or act of abuse or neglect described	
28	in subdivision (1) is not relevant to the person's present ability to	
29	care for a child, and that approval of the permanency plan is in the	
30	best interest of the child.	
31	However, a court may not approve a permanency plan if the person has	
32	been convicted of a felony listed in IC 12-17.4-4-11 that is not	
33	specifically excluded under subdivision (1)(B), or has a juvenile	
34	adjudication for an act that would be a felony listed in IC 12-17.4-4-11	
35	if committed by an adult that is not specifically excluded under	
36	subdivision (1)(B).	
37	(e) In making its written finding under subsection (d), the court shall	
38	consider the following:	
39	(1) The length of time since the person committed the offense,	
40	delinquent act, or act that resulted in the substantiated report of	
41	abuse or neglect.	
42	(2) The severity of the offense, delinquent act, or abuse or neglect.	



cooperation with a treatment plan, if applicable. SECTION 16. IC 31-37-17-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) The predispositional report prepared by a probation officer or caseworker shall include the following information:	
FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) The predispositional report prepared by a probation officer or caseworker shall include the following information:	
5 predispositional report prepared by a probation officer or caseworker 6 shall include the following information:	
6 shall include the following information:	
<u> </u>	
7 (1) A dissipation of all dissipations 1 outlines 11 1.	
7 (1) A description of all dispositional options considered in	
8 preparing the report.	
9 (2) An evaluation of each of the options considered in relation to	
the plan of care, treatment, rehabilitation, or placement	
recommended under the guidelines described in section 4 of this	
chapter.	
13 (3) The name, occupation and position, and any relationship to the	
child of each person with whom the preparer of the report	
15 conferred as provided in section 1.1 of this chapter.	
16 (b) If a probation officer or a caseworker is considering an	
out-of-home placement, including placement with a blood or an	
adoptive relative caretaker, the probation officer or caseworker must	
conduct a criminal history check (as defined in IC 31-9-2-22.5) for	
20 each person who:	
21 (1) is currently residing in the location designated as the	
22 out-of-home placement; or	
23 (2) in the reasonable belief of the probation officer or caseworker,	
is expected to be residing in the location designated as the	
25 out-of-home placement during the time the child would be placed	
in the location.	
27 The results of the criminal history check must be included in the	
28 predispositional report.	
29 (c) A probation officer or caseworker is not required to conduct a	
criminal history check under this section if:	
31 (1) the probation officer or caseworker is considering only an	
out-of-home placement to an entity or a facility that:	
33 (A) is not a residence (as defined in IC 3-5-2-42.5); or	
34 (B) is licensed by the state; or	
35 (2) placement under this section is undetermined at the time the	
predispositional report is prepared.	
37 SECTION 17. IC 31-37-19-6.5 IS AMENDED TO READ AS	
FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.5. (a) Except as	
provided in subsection (c), the juvenile court may not enter a	
dispositional decree placing a child in another home under section 1(3)	
or 6(b)(2)(D) of this chapter or awarding wardship to the county office	
of family and children that results in a placement with a person under	



1	section 1(4) or 6(b)(2)(E) of this chapter if a person who is:
2	(1) currently residing in the home in which the child would be
3	placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this
4	chapter; or
5	(2) reasonably expected to be residing in the home in which the
6	child would be placed under section 1(3), 1(4), 6(b)(2)(D), or
7	6(b)(2)(E) of this chapter during the time the child would be
8	placed in the home;
9	has committed an act resulting in a substantiated report of child abuse
10	or neglect, has a juvenile adjudication for an act that would be a felony
11	listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction
12	for a felony listed in IC 12-17.4-4-11.
13	(b) The juvenile court shall order the probation officer or
14	caseworker who prepared the predispositional report to conduct a
15	criminal history check (as defined in IC 31-9-2-22.5) to determine if
16	a person described in subsection (a)(1) or (a)(2) has committed an act
17	resulting in a substantiated report of child abuse or neglect, has a
18	juvenile adjudication for an act that would be a felony listed in
19	IC 12-17.4-4-11 if committed by an adult, or has a conviction for a
20	felony listed in IC 12-17.4-4-11. However, the juvenile court is not
21	required to order a criminal history check under this section if criminal
22	history information under IC 31-37-17-6.1 establishes whether a person
23	described in subsection (a)(1) or (a)(2) has committed an act resulting
24	in a substantiated report of child abuse or neglect, has a juvenile
25	adjudication for an act that would be a felony listed in IC 12-17.4-4-11
26	if committed by an adult, or has a conviction for a felony listed in
27	IC 12-17.4-4-11.
28	(c) The juvenile court may enter a dispositional decree placing a
29	child in another home under section 1(3) or 6(b)(2)(D) of this chapter
30	or awarding wardship to the county office of family and children that
31	results in a placement with a person under section 1(4) or 6(b)(2)(E) of
32	this chapter if:
33	(1) a person described in subsection (a)(1) or (a)(2) has:
34	(A) committed an act resulting in a substantiated report of
35	child abuse or neglect; or
36	(B) been convicted or had a juvenile adjudication for:
37	(i) reckless homicide (IC 35-42-1-5);
38	(ii) battery (IC 35-42-2-1) as a Class C or D felony;
39	(iii) criminal confinement (IC 35-42-3-3) as a Class C or D
40	felony;
41	(iv) arson (IC 35-43-1-1) as a Class C or D felony;
42	(v) a felony involving a weapon under IC 35-47 or



1	IC 35-47.5 as a Class C or D felony;
2	(vi) a felony relating to controlled substances under
3	IC 35-48-4 as a Class C or D felony; or
4	(vii) a felony that is substantially equivalent to a felony
5	listed in items (i) through (vi) for which the conviction was
6	entered in another state; and
7	(2) the court makes a written finding that the person's commission
8	of the offense, delinquent act, or act of abuse or neglect described
9	in subdivision (1) is not relevant to the person's present ability to
0	care for a child, and that entry of a dispositional decree placing
. 1	the child in another home is in the best interest of the child.
2	However, a court may not enter a dispositional decree placing a child
3	in another home under section 1(3) or 6(b)(2)(D) of this chapter or
4	awarding wardship to the county office of family and children if the
.5	person has been convicted of a felony listed in IC 12-17.4-4-11 that is
6	not specifically excluded under subdivision (1)(B), or has a juvenile
7	adjudication for an act that would be a felony listed in IC 12-17.4-4-11
8	if committed by an adult that is not specifically excluded under
9	subdivision (1)(B).
20	(d) In making its written finding under subsection (c), the court shall
21	consider the following:
22	(1) The length of time since the person committed the offense,
23	delinquent act, or act that resulted in the substantiated report of
24	abuse or neglect.
25	(2) The severity of the offense, delinquent act, or abuse or neglect.
26	(3) Evidence of the person's rehabilitation, including the person's
27	cooperation with a treatment plan, if applicable.
28	SECTION 18. IC 31-39-2-13.5 IS AMENDED TO READ AS
29	FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.5. The records of the
0	juvenile court are available without a court order to an employee of the
31	division of family and children, a caseworker, or a juvenile probation
32	officer conducting a criminal history check (as defined in
3	IC 31-9-2-22.5) under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to
34	determine the appropriateness of an out-of-home placement for a:
35	(1) child at imminent risk of placement;
66	(2) child in need of services; or
37	(3) delinquent child.
8	SECTION 19. IC 31-9-2-29.7 IS REPEALED [EFFECTIVE JULY
9	1 2005]

